

REMARKS

Applicants canceled claims 14, 16, 17, 19, and 20, and amended claims 1-5, 7, 8, 15, and 27-44. Applicants acknowledge the Examiner's indication that claims 8, 9, 15, and 18 are allowable. Claims 9 and 18 are in independent form, and claims 8 and 15 have been amended to be in independent form, and therefore, these claims should be passed to allowance. Claims 1-5, 7-13, 15, 18, and 21-44 are presented for examination.

The Examiner rejected claims 1-5, 7, 10-14, 16, 17, 19, 20, 26-29, 31-35, 37-42, and 44 under 35 U.S.C. § 102(e) over U.S. Patent No. 6,423,438 (Payne). Claims 14, 16, 17, 19, and 20 have been canceled. As amended, the independent claims (1, 27, 33, and 37) recite a battery system including a casing configured to receive one or more batteries and to be used with an electronic device, and a battery. Payne does not describe or suggest the claimed casing, and therefore, Applicants request that the rejection be withdrawn.

Claims 10-13, which depend from allowable claim 9, are patentable for at least the same reasons that claim 9 is patentable. Claim 26 is patentable for at least the same reasons that claim 30 is patentable (see below).

The Examiner rejected claims 21-25, 30, 36, and 43 under 35 U.S.C. § 103(a) as being unpatentable over Payne in view of U.S. Patent No. 6,197,445 (Ward).

Payne could only qualify as a reference under 35 U.S.C. § 102(e). But at the time the claimed invention was made, the subject matter of Payne and the claimed invention were subject to an obligation of assignment to the same entity (The Gillette Company). Therefore, Payne cannot preclude patentability under 35 U.S.C. § 103. (See, e.g., 35 U.S.C. § 103(c) and MPEP 706.02(l)(1).) Applicants request that the rejections under 35 U.S.C. § 103(a) be withdrawn.

Applicants believe the claims are in condition for allowance, which action is requested


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Enclosed is a Petition for Extension of Time with the fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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